

IN THE WESTERN DISTRICT COURT
FOR THE UNITED STATES OF VIRGINIA
LYNCHBURG DIVISION
FEBRUARY 2008

CLERK'S OFFICE U.S. DIST. COURT
AT RICHMOND, VA

FILED

FOR L'BURG
FEB 14 2008

JOHN F. CORAN, CLERK
BY *[Signature]*
DEPUTY CLERK

6-08CR6

UNITED STATES OF AMERICA) Criminal No.
)
)
v.) INDICTMENT
)
)
) In Violation of:
STEVE ALLEN BLACK) Title 18, U.S.C. §2
RONALD EDWARD BLACK) Title 18, U.S.C. §371
DERECK LORENZO DUNSTON) Title 18, U.S.C. §1341
) Title 18, U.S.C. §1343
) Title 18, U.S.C. §1344
) Title 18, U.S.C. §1028A
) Title 18, U.S.C. §1029

INDICTMENT

The Grand Jury charges:

A. INTRODUCTION

At all times material to this Indictment:

1. From on or about April, 2007, until January, 2008, the defendants, **STEVE ALLEN BLACK, RONALD EDWARD BLACK, and DERECK LORENZO DUNSTON**, participated in a credit card mastering scheme in which legitimate access device account numbers were successfully coded on to counterfeit access devices.

2. The counterfeit access devices were used to purchase goods and services at various merchants in the Western District of Virginia including: 7-Eleven, Amoco Oil, Exxon Mobil, Kroger, Sheetz, Shell Oil, and Wilco/Hess. The merchants were located in the following locations: Altavista, Bedford, Forest, Harrisonburg, Lynchburg, Madison Heights, Roanoke, and Salem.

3. Individuals contacted the defendants and met them at the Touch of Class Car Wash

located at 2001 12th Street, Lynchburg, Virginia.

4. The defendants followed, rode with, or met the individuals at a local gas station. The defendants utilized the “pay at the pump” method and swiped a counterfeit access device as payment to the merchant for gasoline. The defendants then received cash payment for approximately half the price of the gasoline charged to the counterfeit access devices.

5. The defendants were known in the community as “The Gas Men.”

6. The defendants obtained counterfeit access devices from trips to New York. The defendants caused counterfeit access devices to be sent through the United States mail. The defendants received counterfeit access devices through the mail from New York to the Western District of Virginia.

7. The counterfeit access devices appeared to be in sequential order.

8. From on or about April, 2007, until September, 2007, the following fraudulent transactions occurred on counterfeit access devices issued by Capital One:

Store	Location	Number of Fraudulent Transactions
Sheetz Store #197	747 Fairfax Street Stephens City, Virginia	8
Sheetz Store #265	14480 Wards Road Lynchburg, Virginia	1198
Sheetz Store #271	2634 Lakeside Drive Lynchburg, Virginia	174
Sheetz Store #272	4089 Amherst Hwy Madison Heights, Virginia	296
Wilco Store #691	2501 Lakeside Drive Lynchburg, Virginia	56

Wilco Store #692	8017 Timberlake Road Lynchburg, Virginia	55
Wilco Store #693	Madison Heights, Virginia	21
Wilco Store #694	Wards Road Lynchburg, Virginia	153
Wilco Store #695	37332 Campbell Avenue Lynchburg, Virginia	620

11. When a Capital One counterfeit card was swiped by the defendants, Capital One servers determined whether or not a specific transaction could be authorized. The access device was “approved” or “declined” as a result. The Capital One servers are located in the state of Georgia.

12. The access device servers for Sheetz stores are located in Claysburg, Pennsylvania at their distribution center.

13. The CAM Bank has a server located outside the United States in Spain.

14. As of January, 2008, Capital One had approximately five hundred and thirty-seven (537) accounts compromised that were used in over 3,000 transactions for gasoline and other items in the Western District of Virginia. The Capital One fraud loss associated with these accounts totals \$131,942.46.

15. As of January, 2008, Chase Manhattan Bank had approximately ten (10) accounts compromised and three (3) accounts with fraud loss totaling \$542.92.

COUNT ONE
(Conspiracy)

The Grand Jury charges that:

1. The Introduction to the Indictment is realleged and made a part of this Count.

2. From on or about April, 2007, and continuing through on or about January, 2008,

within the Western District of Virginia and elsewhere, **STEVEN BLACK, DERECK DUNSTON, and RONALD BLACK**, the defendants herein, and others known and unknown to the Grand Jury, did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree with each other and others known and unknown to the grand jury:

a. to knowingly devise and intend to devise a scheme and artifice to defraud and obtain money and property by means of false and fraudulent pretenses, representations, and promises for the purpose of executing and attempting to execute said scheme and artifice place in a post office and authorized depository for mail matters and things sent and delivered by private and commercial carrier and the Postal Service in order to execute a scheme and artifice to defraud, in violation of 18 United States Code, Sections 1341;

b. to knowingly devise a scheme and artifice to defraud and obtain money and property by means of false and fraudulent pretenses, representations, and promises and to transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce a writing, sign, and signal for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Sections 1343;

c. To knowingly execute and attempt to execute a scheme and artifice to defraud,

execute and attempt to execute a scheme and artifice to obtain moneys, funds, assets, and other property by means of false and fraudulent pretenses, representations, and promises, owned by and under the custody and control of a financial institution, in violation of 18, United States Code, Section 1344;

d. To knowingly transfer, possess, use, without lawful authority, a means of identification of another person, during and in relation to a felony enumerated in 18, United States Code, Section 1028A, and;

e. To knowingly and with intent to defraud produce, use, or traffic in one or more counterfeit access devices, in violation of 18, United States Code, Section 1029.

B. **The Manners and Means of the Conspiracy**

1. The conspiracy was designed so that co-conspirators could enrich themselves from the proceeds generated from receiving cash payment for using counterfeit access devices to pay for gasoline. The defendants and others would travel to various locations within the Western District of Virginia targeting various gas stations, convenience stores, other merchants and financial institutions. The defendants would swipe the counterfeit access devices using “pay at the pump” method and receive cash in return from other unnamed parties. The proceeds were split between the conspirators.

Overt Acts in Furtherance of the Conspiracy

In furtherance of said conspiracy and to effect the objects thereof, the defendants, and other co-conspirators who are not named as defendants herein, performed overt acts in the Western District of Virginia, including but not limited to the following:

1. Sometime between April, 2007, and continuing through on or about January, 2008,

the co-conspirators acquired counterfeit access devices .

2. The defendants would accompany, follow or meet individuals at various merchants and use counterfeit access devices to purchase gasoline. The defendants would then receive a cash payment for approximately half the value of the pumped gas and maintain the proceeds for their personal financial gain.

3. On August 21, 2007, the defendant, **RONALD BLACK**, purchased \$23.19 in gasoline at Sheetz gas station located at 4089 South Amherst, Highway, Madison Heights, Virginia with access device ending in number -1536. The counterfeit access device utilized in the transaction was a Capital One account and was used without the consent of the owner, CM.

4. On October 9, 2007, the defendant, **STEVE BLACK**, stopped at the Stop-in-Food Store/Shell gas station located a 4851 South Amherst Highway, Madison Heights, Virginia and attempted to make several transactions with negative results. **STEVE BLACK** then proceeded to the Wilco/Hess gas station located at 4536 South Amherst, Highway, Madison Heights, Virginia and attempted to purchase gas again with negative results.

5. **STEVE BLACK** proceeded to the Wal-Mart store located in Madison Heights, Virginia. **STEVE BLACK** met with **RONALD BLACK**, who provided him with additional counterfeit access devices. **STEVE BLACK** traveled to a Sheetz gas station located at 4089 South Amherst Highway, Madison Heights, Virginia. Once there **STEVE BLACK** swiped the new access devices at the pump and purchased \$53.00 in gas for one automobile and received payment in cash. **STEVE BLACK** then purchased \$44.27 in gas for another automobile and received an amount in cash. The access device utilized for the transaction was issued by Capital One. The account ending in -1936 was used approximately nineteen (19) times to purchase gasoline from October 7, 2007,

through October 10, 2007, in the Lynchburg, Virginia area. A total of \$804.30 in unauthorized charges were made on the card between October 7, 2007, and October 10, 2007, without the consent of the card holder.

6. On October 11, 2007, **STEVE BLACK** purchased gasoline using a counterfeit access device at the 7-Eleven store located at Fort Avenue and Wadsworth Street, Lynchburg, Virginia. **STEVE BLACK** pumped a total of \$48.11 into a Kia mini van using counterfeit access device ending in -4211.

7. On October 11, 2007, **STEVE BLACK** made another visit to the 7-Eleven store located at Fort Avenue and Wadsworth Street, Lynchburg, Virginia. **STEVE BLACK** pumped gasoline into two additional vehicles, a Black Dodge and a Blue Oldsmobile, for a total of \$76.57 in charges on a counterfeit access device. The two transactions were made with a Capital One counterfeit access device.

8. The Capital One counterfeit access device account used on October 11, 2007, by **STEVE BLACK**, was used approximately nine (9) times to purchase gasoline from on or about October 10, 2007, and continuing though on or about October 11, 2007, in the Lynchburg, Virginia area totaling \$451.63.

9. On November 6, 2007, the defendant, **DERECK DUNSTON**, at the Sheetz located at 14480 Wards Road, Lynchburg, Virginia. pumped \$75.00 worth of gasoline and received \$40.00 in cash and utilized a Capital One counterfeit access device to pay for the gasoline. The Capital One access device ended in -3335 was used on a total of eleven (11) occasions using "pay at the pump" method without the knowledge or consent of the card owner, JB for a total of \$437.14.

10. On December 10, 2007, at the Shell gas station located at 4851 South Amherst

Highway, Madison Heights, Virginia, the defendant, **DERECK DUNSTON**, moved between three vehicles pumping gas. **DERECK DUNSTON** was paid \$35.00 cash for pumping \$75.00 worth of gas. Two additional individuals paid the defendant cash for pumping gas. The counterfeit access device number used for these transactions was issued by The Cam Bank out of Spain.

11. **DERECK DUNSTON** used a Capital One access device ending in -3335 on November 6, 2007. The same Capital One access device ending in -3335 was used on a total of eleven (11) occasions without the knowledge or consent of the owner, JB. The authentic Capital One access device was in JB's possession on the dates specified below:

DATE	MERCHANT LOCATED IN WDVa.	AMOUNT OF GAS PURCHASED	CREDIT CARD OWNER	AUTHORIZED BY CREDIT CARD OWNER
11/05/07	Wilco 695 00006957	\$7.82	JB	No
11/05/07	Wilco 695 00006957	\$50.00	JB	No
11/06/07	Amoco Oil 06432314	\$24.21	JB	No
11/06/07	Amoco Oil 06432314	\$30.02	JB	No
11/06/07	Exxon Mobil 42039982	\$52.05	JB	No
11/06/07	Exxon Mobil 42029330	\$45.81	JB	No
11/06/07	Sheetz 00002659	\$75.00	JB	No
11/06/07	Sheetz 00002659	\$17.05	JB	No
11/06/07	Sheetz 00002659	\$45.14	JB	No
11/06/07	Wilco 695 00006957	\$40.57	JB	No
11/07/07	Wilco 695 00006957	\$49.47	JB	No

12. **STEVE BLACK** used a Capital One counterfeit access device number on October 9, 2007. The same Capital One access device ending in -1936 was used on a total of eighteen (18) occasions without the knowledge or consent of the owner, EA. The authentic Capital One access

device was in EA's possession on the dates specified below:

DATE	MERCHANT LOCATED IN WDVa.	AMOUNT OF GAS PURCHASED	CREDIT CARD OWNER	AUTHORIZED BY CREDIT CARD OWNER
10/07/07	Wilco 695 00006957	\$2.06	EA	No
10/08/07	Amoco Oil 06432314	\$50.00	EA	No
10/08/07	Exxon Mobil 42086827	\$40.00	EA	No
10/08/07	Wilco 694 0006940	\$42.97	EA	No
10/08/07	Shell Oil 54554070174	\$30.81	EA	No
10/08/07	Wilco 695 00006957	\$34.79	EA	No
10/09/07	Shell Oil 54554070109	\$51.00	EA	No
10/09/07	7-Eleven 21117 Q05	\$72.58	EA	No
10/09/07	Amoco Oil 03872470	\$77.40	EA	No
10/09/07	Sheetz 00002725	\$53.00	EA	No
10/09/07	Exxon Mobil 42029330	\$42.43	EA	No
10/09/07	Exxon Mobil 42029090	\$39.77	EA	No
10/09/07	Sheetz 00002725	\$44.27	EA	No
10/10/07	Sheetz 00002717	\$34.97	EA	No
10/10/07	Sheetz 00002717	\$26.86	EA	No
10/10/07	Wilco 695 00006957	\$38.08	EA	No
10/10/07	Wilco 695 00006957	\$40.03	EA	No
10/10/07	7-Eleven 21117 Q05	\$35.19	EA	No

13. On January 15, 2008, **DERECK DUNSTON** was arrested at his residence located at 1137 Dearborn Road, Evington, Virginia. During a search incident to arrest, eight (8) counterfeit access devices were found in his possession.

14. On January 15, 2008, at the same location, a total of two hundred and five (205)

access devices were found.

14. On January 15, 2008, at the same location, a US Postal Service, 2-day priority envelope was found containing fifty (50) gift cards which were determined to be counterfeit access devices. The envelope was mailed using the following address:

<u>addressed to:</u>	<u>addressed from:</u>
Mr. Black 149 Reichard Drive Madison Heights, Va. 24572	John Smith 159-01 Linden Blvd Jamaica, NY 11434

The 159-01 Linden Boulevard, Jamaica, New York address was determined to be a vacant business address.

15. On January 17, 2008, the defendant, **RONALD BLACK**, stated in United States District Court for the Western District of Virginia that he resided at "149 Reichard Drive," in Madison Heights, Virginia with his girl friend.

16. On January 15, 2008, a total of two hundred and thirteen (213) counterfeit access devices were found. The counterfeit access devices recovered were account numbers from the following issuers:

FINANCIAL INSTITUTION	NUMBER OF COUNTERFEIT CARDS FOUND
Nordea Bank	8
Department Stores National Bank	6
HSBC	6
First American	6
Suntrust	4
Laredo National Bank	6

Bank of Tennessee	6
Chase	40
CAM Bank	19
Anheuser Busch Employees Credit Union	4
Lloyd's Bank	8
Bank of America	24
Tesco Personal Finance	8
Caisse Nationale	8
Capital One	9
Fia	18
Egg Banking	7
National Westminster Bank	7
Abbey National Bank	8
Citibank	11

17. All in violation of 18 United States Code, Section 371.

COUNT TWO
(Mail Fraud)

The Grand Jury further charges that:

1. On or about December 19, 2007, the defendant, **RONALD BLACK**, for the purpose of executing, and attempting to execute, the scheme and artifice to defraud and to obtain money by false or fraudulent pretenses, representations, and promises, did knowingly cause to be sent and delivered by the United States Postal Service, a US Postal Service, 2-day priority envelope addressed to "Mr. Black," which contained gift cards determined to be counterfeit access devices, mailed from New York to **RONALD BLACK**'s address in Madison Heights, Virginia.

2. All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT THREE THROUGH NINE
(Wire Fraud)

The Grand Jury further charges that:

1. From on or about April, 2007, and continuing through on or about January, 2008, within the Western District of Virginia, and elsewhere, the defendant, **STEVE ALLEN BLACK** and others known and unknown to the grand jury, for the purpose of executing, and attempting to execute, the scheme and artifice to defraud, and to obtain money by false or fraudulent pretenses, representations, and promises, did knowingly cause to be transmitted by means of a wire communication in interstate commerce, certain signs, signals, and sounds, that is, an electronic wire from various convenience stores, gas stations, and merchants to their servers outside of Virginia containing counterfeit access device information. and attempting to do so, knowingly and willfully transmitted and caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures and sounds, including those more fully described below:

Count	Date	Account Number	Issuer	Amount	Origin	Destination
3	10/9/07	-1936	Capital One	\$44.27	Sheetz #272 Madison Heights, Va.	Georgia
4	10/9/07	-1936	Capital One	\$53.00	Sheetz #272 Madison Heights, Va.	Georgia
5	10/11/07	-4221	Capital One	\$48.11	7-11 Lynchburg, Va.	Georgia

6	10/11/07	-4221	Capital One	\$79.57	7-11 Lynchburg, Va.	Georgia
7	08/23/07	-2757	Capital One	\$41.80	Sheetz #265 Lynchburg, Va.	Georgia
8	08/23/07	-2757	Capital One	\$33.97	Sheetz #265 Lynchburg, Va.	Georgia
9	08/23/07	-2757	Capital One	\$61.58	Sheetz #265 Lynchburg, Va.	Georgia

2. All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TEN
(Wire Fraud)

The Grand Jury further charges that:

1. From on or about April, 2007, and continuing through on or about January, 2008, within the Western District of Virginia, and elsewhere, the defendant, **RONALD BLACK** and others known and unknown to the grand jury, for the purpose of executing, and attempting to execute, the scheme and artifice to defraud, and to obtain money by false or fraudulent pretenses, representations, and promises, did knowingly cause to be transmitted by means of a wire communication in interstate commerce, certain signs, signals, and sounds, that is, an electronic wire from various convenience stores, gas stations, and merchants to their servers outside of Virginia containing counterfeit access device information. and attempting to do so, knowingly and willfully transmitted and caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures and sounds, including those more fully described below:

Count	Date	Account Number	Issuer	Amount	Origin/ Location	Destination
10	08/21/07	-1536	Capital One	\$23.19	Sheetz #272/ Madison Heights, Va.	Georgia

2. All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT ELEVEN THROUGH FIFTEEN
(Wire Fraud)

The Grand Jury further charges that:

1. From on or about April, 2007, and continuing through on or about January, 2008, within the Western District of Virginia, and elsewhere, the defendant, **DERECK DUNSTON** and others known and unknown to the grand jury, for the purpose of executing, and attempting to execute, the scheme and artifice to defraud, and to obtain money by false or fraudulent pretenses, representations, and promises, did knowingly cause to be transmitted by means of a wire communication in interstate commerce, certain signs, signals, and sounds, that is, an electronic wire from various convenience stores, gas stations, and merchants to their servers outside of Virginia containing counterfeit access device information. and attempting to do so, knowingly and willfully transmitted and caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures and sounds, including those more fully described below:

Count	Date	Account Number	Issuer	Amount	Origin/ Location	Destination
11	11/06/07	-3335	Capital One	\$75.00	Sheetz #265 Lynchburg, Va.	Georgia

12	12/10/07	-8505	CAM	\$75.00	Shell, Madison Heights, Va.	Spain
13	12/10/07	-8505	CAM	\$58.01	Shell, Madison Heights, Va.	Spain
14	12/10/07	-8497	CAM	\$66.67	Shell, Madison Heights, Va.	Spain
15	12/10/07	-8497	CAM	\$70.29	Shell, Madison Heights, Va.	Spain

2. All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SIXTEEN
(BANK FRAUD)

The Grand Jury further charges that:

1. On or about , November 6, 2007, in the Western District of Virginia, **DERECK DUNSTON**, the defendants, and others known and unknown to the Grand Jury, did knowingly execute and attempt to execute a scheme and artifice to defraud and did knowingly execute and attempt to execute a scheme and artifice to obtain moneys, funds, assets and other property, by means of false and fraudulent pretenses, representations and promises, owned by and under the custody and control of various financial institutions, to wit: using counterfeit access devices to charge gasoline using “pay at the pump” method without the knowledge and consent of the card owner and without lawful authority.

COUNT	FINANCIAL INSTITUTION	CARD NUMBER	Card Owner
16	Capital One	-3335	JB

2. All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT SEVENTEEN
(BANK FRAUD)

The Grand Jury further charges that:

1. On or about, October 9, 2007, in the Western District of Virginia, **STEVE BLACK**, the defendant, and others known and unknown to the Grand Jury, did knowingly execute and attempt to execute a scheme and artifice to defraud and did knowingly execute and attempt to execute a scheme and artifice to obtain moneys, funds, assets and other property, by means of false and fraudulent pretenses, representations and promises, owned by and under the custody and control of various financial institutions, to wit: using counterfeit access devices to charge gasoline using "pay at the pump" method without the knowledge and consent of the card owner and without lawful authority.

COUNT	FINANCIAL INSTITUTION	CARD NUMBER	Card Owner
17	Capital One	-1936	EA

2. All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT EIGHTEEN
(BANK FRAUD)

The Grand Jury further charges that:

1. On or about, August 21, 2007, in the Western District of Virginia, **RONALD BLACK**, the defendant, and others known and unknown to the Grand Jury, did knowingly execute and attempt to execute a scheme and artifice to defraud and did knowingly execute and attempt to execute a scheme and artifice to obtain moneys, funds, assets and other property, by means of false

and fraudulent pretenses, representations and promises, owned by and under the custody and control of various financial institutions, to wit: using counterfeit access devices to charge gasoline using "pay at the pump" method without the knowledge and consent of the card owner and without lawful authority.

COUNT	FINANCIAL INSTITUTION	CARD NUMBER	Card Owner
18	Capital One	-1536	CM

2. All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT NINETEEN
(Access Device Fraud)

1. On or about April, 2007, and continuing through on or about January, 2008, within the Western District of Virginia, and elsewhere, the defendants, **STEVEN ALLEN BLACK**, **DERECK LORENZO DUNSTON**, and **RONALD EDWARD BLACK**, knowingly and with intent to defraud produced, used and trafficked, and aided and abetted and willfully caused the production of one or more counterfeit access devices, including, but not limited to, counterfeit access devices, thereby affecting interstate commerce.

2. All in violation of Title 18, United States Code, Section 1029(a)(1) and 2.

COUNT TWENTY
(Access Device Fraud)

1. On or about January 18, 2008, within the Western district of Virginia, and elsewhere, the defendant, **STEVE BLACK**, **DERECK DUNSTON** and **RONALD BLACK**, knowingly and with intent to defraud possessed, and aided and abetted and willfully caused the possession of 15 or

more counterfeit and unauthorized access devices, that is, approximately two hundred and thirteen (213) counterfeit access devices, thereby affecting interstate commerce.

2. All in violation of Title 18, United States Code, Sections 1029(a)(3) and 2.

COUNT TWENTY-ONE THROUGH TWENTY-THREE
(AGGRAVATED IDENTITY THEFT)

1. On or about September 21, 2007 , and continuing through on or about October 16, 2007, in the Western District of Virginia, the defendant, **STEVEN BLACK**, did knowingly transfer, posses, use without lawful authority, a means of identification of another person, to wit, Capital One bank access device numbers during and in relation to Title 18, United States Code, Section 1028A(c), to wit, wire fraud as detailed below:

COUNT	ACCOUNT NUMBER	BANK	CARD OWNER
21	-1936	Capital One	EA
22	-4221	Capital One	LG
23	-2757	Capital One	RH

2. All in violation of Title 18, United States Code, Section 1028A.

COUNT TWENTY-FOUR
(AGGRAVATED IDENTITY THEFT)

1. On or about November 6, 2007 and continuing through on or about December 10, 2007 , in the Western District of Virginia, the defendant, **DERECK DUNSTON**, did knowingly transfer, posses, use without lawful authority, a means of identification of another person, to wit, Capital One bank access device number during and in relation to Title 18, United States Code, Section 1028A(c), to wit, wire fraud as detailed below:

COUNT	ACCOUNT NUMBER	BANK
24	-3335	Capital One

2. All in violation of Title 18, United States Code, Section 1028A.

COUNT TWENTY-FIVE
(AGGRAVATED IDENTITY THEFT)

1. On or about August 21, 2007, in the Western District of Virginia, the defendant, **RONALD BLACK**, did knowingly transfer, posses, use without lawful authority, a means of identification of another person, to wit, Capital One bank access device number, during and in relation to Title 18, United States Code, Section 1028A(c), to wit, wire fraud as detailed below:

COUNT	ACCOUNT NUMBER	BANK	CARD OWNER
25	-1536	Capital One	CM

2. All in violation of Title 18, United States Code, Section 1028A.

COUNT TWENTY-SIX
(Forfeiture Allegation)

1. Upon conviction of one or more of the felony offenses alleged in this Indictment, the

Defendants shall forfeit to the United States of America:

(a) any property, real or personal, that constitutes or is derived from proceeds traceable to a violation of Title 18 United States Code, Sections 371 and 1341, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

(b) any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of a violation of Title 18, United States Code, Sections 1343, 1344, 1028, and 1029, pursuant to Title 18 United States Code, Section 982(a)(2).

(c) any personal property used or intended to be used to commit a violation of Title 18 United States Code, Section 1028 and 1029, pursuant to Title 18 United States Codes, Sections 1028(b)(5) and 1029(c)(1)(C).

2. The property to be forfeited to the United States **includes but is not limited** to the

following property:

(a) Money Judgment

Not less than \$132,485.38 amount of proposed judgment in United States currency and all interest and proceeds traceable thereto, in that such sum in aggregate was obtained directly or indirectly as a result of the aforestated violations or is traceable to such property.

3. If any of the above-described forfeitable property, as a result of any act or omission of

defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.

A TRUE BILL, this 14th day of February 2008.



Paul Weller
FOREPERSON



JOHN L. BROWNLEE
United States Attorney